

REDACTED EXHIBIT C

Confidential – Attorneys' Eyes Only
Jame E. Harris, III – November 27, 2023

Page 1

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

HEADWATER RESEARCH, LLC,

Plaintiff,

vs.

SAMSUNG ELECTRONIC CO., LTD
AND SAMSUNG ELECTRONICS
AMERICA, INC.,

Defendants.

Case No.
2:22-CV-00422-RG-RSP

CONFIDENTIAL – ATTORNEYS' EYES ONLY

VIDEO RECORDED DEPOSITION OF JAMES E. HARRIS, III

Monday, November 27, 2023, 9:04 a.m.

FISH & RICHARDSON PC

1000 Maine Avenue, SW

Washington, DC

Reported By: Marjorie Peters, FAPR, RMR, CRR, RSA

Confidential – Attorneys' Eyes Only
Jame E. Harris, III – November 27, 2023

Page 2

1

2

3

4

5

6

7

8

CONFIDENTIAL – ATTORNEYS' EYES ONLY

9

VIDEO RECORDED DEPOSITION OF JAMES E. HARRIS, III,

10

a witness herein, called by the Samsung Defendants

11

for examination, taken pursuant to Subpoena, Federal

12

Rules of Civil Procedure, by and before Marjorie

13

Peters, a Registered Merit Reporter, Certified

14

Realtime Reporter and Notary Public in and for the

15

District of Columbia, at FISH & RICHARDSON PC, 1000

16

Maine Avenue, SW, Washington, DC, on Monday,

17

November 27, 2023, at 9:04 a.m.

18

19

20

21

22

Confidential – Attorneys' Eyes Only
Jame E. Harris, III – November 27, 2023

Page 3

1 A P P E A R A N C E S

2 For the Plaintiff:

3 Marc A. Fenster, Esq.
4 RUSS, AUGUST & KABAT
5 12424 Wilshire Blvd. 12th Floor
6 Los Angeles, CA 90025
7 mfenster@raklaw.com
8 (310) 979-8278

9 For the Defendants:

10 Jared Hartzman, Esq.
11 FISH & RICHARDSON
12 1000 Maine Avenue SW
13 Washington, D.C. 20024
14 hartzman@fr.com
15 202-626-7754

16 Steffen C. Lake, Esquire
17 FISH & RICHARDSON
18 1180 Peachtree Street NE, 21st Floor
19 Atlanta, GA 30309
20 Lake@fr.com
21 404-724-2850

22 ALSO PRESENT:

Orson Braithwaite, Legal Videographer

Confidential – Attorneys' Eyes Only
Jame E. Harris, III – November 27, 2023

Page 5

[REDACTED]

PREVIOUS EXHIBITS PAGE

17

18

19 REQUESTS PAGE LINE

20

21

22

Confidential – Attorneys' Eyes Only
Jame E. Harris, III – November 27, 2023

Page 6

1 Thad Kodish, Esq., Fish & Richardson, (via Zoom)

2 Reza Mirzaie and Jason Weitholter

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

Confidential – Attorneys' Eyes Only
Jame E. Harris, III – November 27, 2023

Page 7

09:03:29	1	P R O C E E D I N G S
09:03:29	2	THE VIDEOGRAPHER: Good morning.
09:03:30	3	Here begins Disk 1 in the deposition of Mr. James
09:03:35	4	Harris in the matter of Headwater Research versus
09:03:40	5	Samsung Electronics Company, LTD.
09:03:43	6	Today's date is November 27th, 2023.
09:03:45	7	And the time is 9:04 a.m.
09:03:47	8	This deposition is being taken at
09:03:49	9	Fish & Richardson, P.C., located at 1000 Maine
09:03:54	10	Avenue Southwest, Washington, D.C.
09:03:55	11	I'm Orson Braithwaite, the
09:03:57	12	videographer. And the court reporter is Marjorie
09:04:00	13	Peters from the firm Gregory Edwards, LLC.
09:04:03	14	Counsel will now enter -- excuse me.
09:04:05	15	Counsel will introduce themselves
09:04:06	16	for the record.
09:04:07	17	MR. HARTZMAN: This is Jared
09:04:09	18	Hartzman from Fish & Richardson representing the
09:04:12	19	Samsung Defendants. And with me today is my
09:04:14	20	colleague, Steffen Lake. And on the line is Thad
09:04:20	21	Kodish.
09:04:20	22	MR. FENSTER: Good morning. This is

Confidential - Attorneys' Eyes Only
Jame E. Harris, III - November 27, 2023

Page 8

09:04:22	1	Marc Fenster with Russ, August & Kabat on behalf of
09:04:27	2	the Plaintiff, Headwater, and the Headwater
09:04:27	3	entities. With me on the line are my partners, Reza
09:04:35	4	Mirzaie and Jason Weithholter.

09:04:35	5	THE VIDEOGRAPHER: Thank you.
----------	---	------------------------------

09:04:36	6	Will the court reporter please swear
09:04:37	7	in the Witness.

09:04:37	8	Ther eupon,
----------	---	-------------

09:04:37	9	JAMES E. HARRIS, III,
09:04:37	10	having been called as a witness, on behalf of the
09:04:47	11	Plaintiff, being duly sworn, testified as follows:

09:04:47 12 EXAMINATION

09:04:47 13 BY MR. HARTZMAN:

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

Confidential - Attorneys' Eyes Only
Jame E. Harris, III - November 27, 2023

Page 19

[REDACTED]

09:17:22 5 Q. Do you have any knowledge of programming

09:17:24 6 languages?

09:17:25 7 A. Yes.

09:17:26 8 Q. Which ones are you fluent in?

09:17:29 9 A. I don't know that I'm fluent in any of

09:17:31 10 them anymore. I'm certainly most fluent in C, and

09:17:36 11 C++, but there are a number of languages that I

09:17:44 12 understand well, but not well enough that I code

09:17:47 13 them in every day, but I can read them.

09:17:49 14 Q. Can you list those languages?

09:17:51 15 A. Well, back in the day, Fortran, Ada.

09:17:58 16 Also, you know, more recent, Java, similar --

09:18:07 17 similar languages to that, but probably mostly Java.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Confidential - Attorneys' Eyes Only
Jame E. Harris, III - November 27, 2023

Page 146

[illegible]

Confidential – Attorneys' Eyes Only
Jame E. Harris, III – November 27, 2023

Page 150

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

02:05:02 7 Q. Were you aware that Android's source
02:05:04 8 code was open to the public?

02:05:05 9 MR. FENSTER: Object to form.

02:05:06 10 A. I am aware that parts of Android's
02:05:12 11 source code are open source.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Confidential - Attorneys' Eyes Only
Jame E. Harris, III - November 27, 2023

Page 167

02:36:39 2 Q. For the record, this is US Patent Number
02:36:42 3 10,237,773.
02:36:52 4 If we turn to Page 13, and we look
02:37:06 5 about two-thirds of the way down the right column,
02:37:11 6 there's a reference to Android Cupcake Excerpts.
02:37:17 7 Let me know when you see that.
02:37:18 8 A. Yes.
02:37:19 9 Q. And it states, "Android Cupcake
02:37:24 10 Excerpts, the Android Open Source Project,
02:37:27 11 February 10th, 2009."
02:37:28 12 Do you see that?
02:37:29 13 A. Yes.

Confidential – Attorneys' Eyes Only
Jame E. Harris, III – November 27, 2023

Page 168

[REDACTED]

02:39:04 17 Q. Okay. I want to flip back to Harris
02:39:14 18 Exhibit 5.
02:39:35 19 If you take a look at the references
02:39:37 20 cited in this patent, do any of the references cited
02:39:42 21 refer to "Android"?
02:39:52 22 MR. FENSTER: Object to form.

Confidential – Attorneys' Eyes Only
Jame E. Harris, III – November 27, 2023

Page 169

02:39:55 1 A. There's a bunch of patents cited here.
02:39:58 2 I'm not sure which of them refer to "Android". I'm
02:40:06 3 sure a lot do. There's probably some that are even
02:40:09 4 assigned to Google.
02:40:10 5 Yeah, I can't tell that just from
02:40:12 6 looking at the patent numbers, and first named
02:40:15 7 inventors.
02:40:16 8 Q. Is the word "Android" ever mentioned in
02:40:18 9 the references cited?
02:40:21 10 MR. FENSTER: Object to form.
02:40:22 11 A. I mean, unless one of the inventors is
02:40:36 12 named "Android", no.
02:40:37 13 Q. While we have Exhibit 5 here, do you see
02:40:46 14 on the cover of this '701 Patent, the applicant is
02:40:51 15 listed as Headwater Partners I, LLC?
02:40:55 16 A. Yes.
02:40:59 17 Q. So, this would be one of the Headwater
02:41:02 18 Partners I patent portfolio?
02:41:05 19 A. Correct.
02:41:05 20 Q. I'm going to introduce Harris Exhibit 7.
02:41:05 21 (Harris Exhibit 7, US Patent Number 9,143,976, was
02:41:36 22 marked for identification.)

Confidential – Attorneys' Eyes Only
Jame E. Harris, III – November 27, 2023

Page 170

02:41:36 1 Q. For the record, this is US Patent

02:41:37 2 Number 9,143,976. Above the Abstract do you see,

02:41:48 3 again, that you are listed as the attorney of

02:41:50 4 record?

02:41:51 5 A. Yes.

02:41:51 6 Q. Do you see in the top left corner that

02:41:54 7 the applicant is, again, Headwater Partners 1?

02:41:58 8 A. Yes.

02:41:58 9 Q. If you turn to the references cited

02:42:03 10 section for the '976 Patent, is the word "Android"

02:42:09 11 ever mentioned in the references cited section?

02:42:13 12 MR. FENSTER: Object to form.

02:43:31 13 A. Unless I overlooked it, I don't see it.

02:43:34 14 Q. Okay. I'm going to introduce Harris

02:43:40 15 Exhibit 8.

02:43:40 16 (Harris Exhibit 8, US Patent Number 9,271,184, was

02:43:53 17 marked for identification.)

02:43:53 18 Q. For the record, this is US Patent Number

02:43:55 19 9,271,184.

02:44:04 20 Just like we discussed with the

02:44:06 21 other patents, do you see here that this applicant

02:44:08 22 was Headwater Partners I?

Confidential – Attorneys' Eyes Only
Jame E. Harris, III – November 27, 2023

Page 171

02:44:11 1 A. Mm-hmm.

02:44:11 2 Q. That you are listed as the attorney of
02:44:13 3 record?

02:44:14 4 A. Yes.

02:44:14 5 Q. In the References Cited section for this
02:44:19 6 patent, is the word Android ever mentioned in the
02:44:25 7 References Cited?

02:44:25 8 MR. FENSTER: Object to form.

02:44:25 9 A. I don't see the word Android. I think
02:45:54 10 this is still a silly line of questioning, because
02:45:57 11 if you searched the references, you would probably
02:46:00 12 find hundreds of mentions of the word Android. Just
02:46:04 13 because it's not in the title...

02:46:07 14 Q. I'm going to introduce Harris Exhibit 9.
02:46:07 15 (Harris Exhibit 9, US Patent Number 9,277,433, was
02:46:10 16 marked for identification.)

02:46:22 17 Q. For the record, this is US Patent Number
02:46:24 18 9,277,433.

02:46:35 19 Do you see on this page you are
02:46:37 20 listed as the attorney of record again?

02:46:41 21 A. Yes.

02:46:41 22 Q. That the applicant was also Headwater

Confidential - Attorneys' Eyes Only
Jame E. Harris, III - November 27, 2023

Page 172

02:46:48 1 Partners I?

02:46:49 2 A. Yes.

02:46:50 3 Q. All right. I'm going to ask the same

02:46:56 4 question about the references cited, and whether

02:46:58 5 there's any mention of the word "Android"?

02:47:13 6 MR. FENSTER: Object to form.

02:48:50 7 A. I don't see any.

02:48:52 8 Q. All right. I will introduce as Harris

02:48:57 9 Exhibit 10 US Patent Number 9,277,445.

02:48:57 10 (Harris Exhibit 10, US Patent Number 9,277,445, was

02:48:57 11 marked for identification.)

02:49:23 12 Q. Do you see on the first page above the

02:49:27 13 Abstract that you are listed as the attorney of

02:49:28 14 record?

02:49:28 15 A. Yes.

02:49:28 16 Q. That the applicant is Headwater Partners

02:49:32 17 I?

02:49:33 18 A. Yes.

02:49:33 19 Q. If you turn to the References Cited

02:49:36 20 section for the '445 Patent, do you see any mention

02:49:39 21 of the word "Android"?

02:51:32 22 MR. FENSTER: Object to form.

Confidential – Attorneys' Eyes Only
Jame E. Harris, III – November 27, 2023

Page 173

02:51:32 1 A. No, I don't see it.

02:51:39 2 Q. I'm going to introduce as Exhibit

02:51:43 3 Harris 11 US Patent Number 9,521,578.

02:51:43 4 (Harris Exhibit 11, US Patent Number 9,521,578, was
02:52:03 5 marked for identification.)

02:52:03 6 Q. On the cover page of this patent, the
02:52:05 7 '578 Patent, do you see that you are listed as the
02:52:08 8 attorney of record?

02:52:08 9 A. Yes.

02:52:09 10 Q. That the applicant is Headwater Partners
02:52:12 11 I?

02:52:12 12 A. Yes.

02:52:13 13 Q. If you take a look at the References
02:52:17 14 Cited section of the '578 Patent, is the word
02:52:20 15 "Android" ever mentioned?

02:52:21 16 MR. FENSTER: Object to form.

02:54:54 17 A. I don't see it.

02:54:55 18 Q. I will introduce to the record Harris
02:55:00 19 Exhibit 12.

02:55:00 20 (Harris Exhibit 12, US Patent Number 9,609,544, was
02:55:00 21 marked for identification.)

02:55:17 22 Q. Do you see on the cover page of the

Confidential - Attorneys' Eyes Only
Jame E. Harris, III - November 27, 2023

Page 174

02:55:18 1 '544 Patent that you are listed as the attorney of
02:55:21 2 record?
02:55:22 3 A. Yes.
02:55:22 4 Q. That the applicant is Headwater Partners
02:55:26 5 I?
02:55:26 6 A. Yes.
02:55:26 7 Q. If you take a look at the References
02:55:31 8 Cited section, do you see any mention of the word
02:55:33 9 "Android"?
02:55:35 10 MR. FENSTER: Object to form.
02:57:22 11 A. I don't see it.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

